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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,997	01/22/2002	Eric A. Veignat	17.0191	1285

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EXAMINER

FITZGERALD, JOHN P

ART UNIT PAPER NUMBER

2856

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/031,997	Applicant(s) VEIGNAT ET AL.	
	Examiner John P. Fitzgerald	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 January 2006.
- 2a) This action is **FINAL**.
- 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 58-70 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 58-70 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 23 January 2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 58-70 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Namely, line 12 of claim 58 states “measuring in a first region of the well a second pair of.” It is unclear if the Applicant is trying to recite a “second pair of sensors” or a “second pair” of measurements, the measurements being the “local speed” and “local proportions” of the fluid. It appears that the claim is attempting the latter, since the last three lines of the claim recite “a third pair of said local speed and said local proportions,” however, it remains indefinite, for a “first pair” of “local speed” and “local proportions” has not been recited, only a “first pair of sensors” making measurements. Furthermore, the claim goes on to recite

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“first” and “second” locations, each of those locations having a “local” speed and proportion, while the previous portion of the claim recites “local” measurements in the “vicinity of the main body portion.” Lastly, regarding the recitations of the alignment of the “first” and “second” regions being “in the same plane containing the axis of the well,” it is unclear if this plane is defined by the axis, that is, running through the center of the wellbore, dividing it into two halves, that is, if one is looking directly down the circular wellbore, two hemispheres are created, or some other plane is being defined happens to cross the axis, i.e. “containing” the axis of the well. Related to this, in claim 60, the “plane containing the axis of the well is vertical” is recited, thus reciting that the well is a vertical (i.e. not inclined), must be assumed, however, independent claim 58 renders all dependent claims indefinite. Similarly, independent claim 64 recites in its last two lines “wherein said second and third sensor pairs are in the same plane containing the axis of the well.” As pointed out above, this is indefinite. Dependent claim 66 recites that when the well is “inclined from vertical,” the plane containing the axis of the well is vertical and the second pair of speed and proportions sensor means lies at the bottom of the vertical plane. It is unclear how the “plane containing the axis of the well” can be “vertical” if the axis of the entire well is “inclined.” Furthermore, it is unclear how “bottom” is defined, with regards to the geometrical term “plane.” The Examiner suggests the addition of these “planes” to the instant Figures, or a more detailed recitation within the claims that would render the claims definite. Note, no “new matter” can be added.

Allowable Subject Matter

4. None of the prior art of record appears to read on the invention as understood by the Examiner and the subject matter of the claims appears to be allowable if the rejections under 35 U.S.C. § 112 can be overcome. However upon applicant's amendment to overcome the rejections and objections raised by the Examiner and upon the Examiner's better understanding of the invention a comparison of the prior art to the claims will again be made. Note that the indication of allowable subject matter is based upon the features which are presently found in the claims. In overcoming the above rejection, should applicants choose to delete features which are presently in the claims, this indication of allowable subject matter may no longer apply. The examiner therefore suggests that applicants overcome the above rejection under the second paragraph of 35 U.S.C. § 112 by amending the claims to replace the indefinite language with claim language which precisely and particularly defines the invention. The preferred way to correct the lack of antecedent problem or other types of similar problems that have been raised above would be to provide a clear antecedent basis for the feature rather than to delete the language. Deleting features which are presently in the claims broadens the scope of the claims and thus may render the indication of allowable subject matter no longer applicable.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fitzgerald whose telephone number is (571) 272-2843. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams,

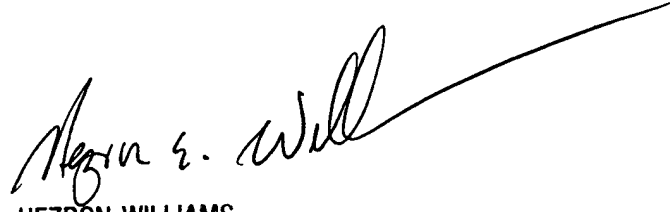
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can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JF

03/17/2006



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